

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Transferring Inbound Surface Parcel
Post (At UPU Rates)

Docket No. MC2014-28

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO TRANSFER
INBOUND SURFACE PARCEL POST (AT UPU RATES)
TO THE COMPETITIVE PRODUCT LIST

(July 28, 2014)

The Public Representative hereby provides comments pursuant to Order No. 2015.¹ In that order, the Commission established a docket to receive comments from interested persons on the Postal Service's Request to transfer Inbound Surface Parcel Post (at UPU rates) from the market dominant product list to the competitive product list.² Additionally, the Postal Service requests the merger of the Inbound Surface Parcel Post (at UPU rates) product with Inbound Air Parcel Post (at UPU rates) to form a new competitive product, to be identified as Inbound Parcel Post (at UPU rates). *Id.*

Included as Attachment A to the Request is a copy of the Resolution of the Governors that authorizes the Postal Service's Request. Attachment B is a Statement of Supporting Justification providing information required by 39 CFR 3020.32. Proposed changes to the text of the Mail Classification Schedule (MCS) are presented in Attachment C. In a separate notice, the Postal Service filed a non-public library reference showing the combined cost coverage and related financial data for Inbound

¹ Notice and Order Concerning Transfer of Inbound Surface Parcel Post (at UPU Rates) to the Competitive Product List, Order No. 1649, June 27, 2014.

² Request of the United States Postal Service to Transfer Inbound Surface Parcel Post (at UPU rates) to the Competitive Product List, June 25, 2014 (Request).

Surface Parcel Post (at UPU rates) and Inbound Air Parcel Post (at UPU rates) based upon FY 2013 data.³

Inbound Surface Parcel Post (at UPU rates) is currently classified as a market dominant product within the Package Services class. Inbound Air Parcel Post (at UPU rates) is classified as a separate competitive product.

The Postal Service maintains that Inbound Surface Parcel Post (at UPU rates) fulfills all of the criteria for competitive products under section 3642. Request at 2. The Postal Service therefore requests that Inbound Surface Parcel Post (at UPU rates) be transferred to the competitive product list. *Id.*

On July 15, 2014, the Commission filed a Chairman's Information Request (CHIR) to propose alternative text for the Mail Classification Schedule (MCS), and seek additional information concerning private industry alternatives to the delivery of inbound parcels.⁴ The Postal Service provided its response on July 22, 2014.⁵

BACKGROUND

The acceptance and delivery of inbound parcels from foreign postal operators is a required service offering of UPU-member countries. As such, the Postal Service accepts both inbound air and surface parcels, and foreign postal operators compensate the Postal Service for the delivery of inbound parcels at prices known as inward land rates.

Inward land rates are set by the UPU according to formulas established in UPU regulations.⁶ There are two distinct rates for inbound air and surface parcels: a rate per item and a rate per kilogram. *Id.*, Attachment 3. Each year, the formulas generate a "base" rate per item and per kilogram which are based on a percentage of each

³ United States Postal Service Notice of Filing Library Reference USPS-LR-MC2014-28/NP1 and Application for Non-Public Treatment, June 25, 2014.

⁴ Chairman's Information Request No. 1, July 15, 2014.

⁵ Responses of the United States Postal Service to Chairman's Information Request No. 1, July 22, 2014.

⁶ See Notice of the United States Postal Service of Filing Changes in Rates Not Of General Applicability for Inbound Air Parcel Post, Docket No. CP2014-54, June 11, 2014.

member country's inward land rates in 2004. UPU-member countries may seek an annual inflation adjustment to the formula-derived base rates, which are applied in January of each year. UPU-member countries may also qualify for increases (bonus payments) to their base rates if they provide certain service features, such as tracking of parcels, delivery to the home, acceptance of liability, etc. The bonus payments are applied to the base rates in January and July of each year.

Except where postal operators have negotiated alternatives to UPU inward land rates, there are no separate or discounted rates for inbound air or surface parcels entered in bulk quantities.

COMMENTS

The Public Representative has reviewed the Postal Service's Request, attachments accompanying the Request, and the financial data filed under seal. Based upon that review, the Public Representative concludes that the Postal Service's Request satisfies the criteria set forth in 39 U.S.C. § 3642 and complies with 39 C.F.R. § 3020.30 *et seq.*

Compliance with statutory and regulatory requirements. Commission rules require the Postal Service to verify that a proposed transfer “does not classify as competitive a product over which the Postal Service exercises sufficient market power that it can, without risk of losing a significant level of business to other firms offering similar products: (1) set the price of such product substantial above costs; (2) raise prices significantly; (3) decrease quality; or (4) decrease output.” 39 C.F.R. 3020.32(d); see also 39 U.S.C. § 3642(b)(1).

The Postal Service states that because prices for inbound surface parcels from foreign postal operators are set by the UPU, pricing is not a factor in considering whether the Postal Service has market power. Request, Attachment B at 2. The Postal Service also maintains that private consolidators, freight forwards and others offer international shipping arrangements for inbound parcels under similar conditions as Inbound Surface Parcels (at UPU rates). *Id.*, Attachment B at 3. Moreover, in response

to CHIR No. 1, the Postal Service elaborates that both UPS and FedEx operate non-priority, surface transportation networks for the transport and delivery of inbound parcels that Postal Service considers to be a comparable service. CHIR Response at 2.

The Postal Service asserts that the transfer of Inbound Surface Parcel Post (at UPU rates) will not violate the standards of 39 U.S.C. § 3633. The Inbound Surface Parcel Post (at UPU) reported a cost coverage of 153.6 percent in FY 2013. Request, Attachment B at 2. The Postal Service adds that this cost coverage, when combined with the cost coverage of Inbound Air Parcel Post (at UPU rates), shows that the transfer will not adversely affect the postal Service's ability to cover total institutional costs. *Id.* Nor will the combined competitive product be subsidized by market dominant products. *Id.*

The Postal Service maintains that changing that classification of Inbound Surface Parcel Post (at UPU rates) from market dominant to competitive will not demonstrable effect product users or impact small business concerns as prices will remain unchanged after the product is transferred. Finally, the Postal Service states that Inbound Surface Parcel Post (at UPU rates) is excluded from the postal monopoly because prices payable to the Postal Service are more than 6 times the current price of a one-ounce, single-piece First-Class Mail letter. 39 U.S.C. 601(b)(1).

For these reasons, the Public Representative considers the proposed transfer of the Inbound Surface Parcel Post (at UPU rates) product to the competitive product list to be consistent with the applicable statutory and regulatory requirements of 39 U.S.C. 3642 and 39 C.F.R. 3020.30 *et seq.*

Effects of transfer. The Public Representative notes that the proposed transfer of Inbound Surface Parcel Post (at UPU rates) to the competitive product list completes the Postal Service's initiative to transition parcel services from the market dominant to the competitive product list.⁷

⁷ See Docket No. MC2012-13, Order No. 1411 (Order Conditionally Granting Request to Transfer Parcel Post to the Competitive Product List), July 20, 2012; Docket No. MC2012-44, Order No. 1461

Transferring Inbound Surface Parcel Post (at UPU rates) to the competitive product list creates some additional pricing flexibility for the Postal Service when setting prices for the remaining market dominant products in Package Services class. Because rates are set by the UPU, a portion of the revenue available to the Postal Service under any given price cap is already “consumed” by the Inbound Surface Parcel Post (at UPU rates) product and cannot be allocated via price changes to domestic package services products. Transferring Inbound Surface Parcel Post (at UPU rates) to the competitive product list will allow the Postal Service allocate all revenue under the price cap to the remaining domestic products in the Package Services class. Thus, the proposed transfer would provide the Postal Service with additional (albeit minimal) pricing flexibility—an ancillary positive benefit of the proposed transfer.

The Postal Service’s plan to merge Inbound Surface Parcel Post (at UPU rates) and Inbound Air Parcel Post (at UPU rates) to create a new competitive product, Inbound Parcel Post (at UPU rates), would slightly increase the contribution of competitive products generally. As stated above, Inbound Surface Parcel Post (at UPU rates) reported a cost coverage of 153.6 percent in FY 2013. Request, Attachment B at 2. The merged competitive product would have a higher cost coverage than the existing competitive Inbound Air Parcel Post (at UPU rates) product.

The Public Representative respectfully submits the foregoing comments for the Commission’s consideration.

Anne O’Connor
Public Representative
901 New York Ave. NW
Washington, DC 20268-0001
202-789-6892
anne.oconnor@prc.gov

(Order Approving Request for Product List Transfer), September 10, 2012; *see also* Docket No. MC2010-36, Order No. 689 (Order Conditionally Granting Request to Transfer Commercial Standard Mail Parcels to the Competitive Product List), March 2, 2011; Docket No. MC2011-22, Order No. 710 (Order Adding Lightweight Commercial Parcels to the Competitive Product List), April 6, 2011.